

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket HWCA <u>01/02-6004</u>
)	
California Department of)	CONSENT ORDER
Forestry and Fire Protection))	
Sierra South Region)	
1234 East Shaw Avenue)	
Fresno, California 93710-7899)	Health and Safety Code
)	Section 25187
ID No. CAC002269537)	
Respondent.)	
_____)	

The State Department of Toxic Substances Control
(Department) and California Department of Forestry and Fire
Protection, (Respondent) enter into this Consent Order and agree
as follows:

1. Respondent generated hazardous waste at Rancheria Forest
Fire Station, 53488 Road 200, O'Neals, California 93645.

2. The Department became aware of the Site on
April 12, 2000.

3. The Department alleges the following violations:

3.1. The Respondent violated Health and Safety Code,
section 25160(b) and California Code of Regulations, title 22,
section 66262.20, in that on or about March 21, 2000, Respondent
generated hazardous waste submitted for transportation, for
offsite handling, treatment, storage, disposal, or any
combination thereof, without completing a manifest prior to the
time the waste was offered for transportation. To wit: on or
about March 21, 2000, Respondent generated approximately 600
gallons of underground fuel tank rinseate (rinseate). The

rinseate was generated when six underground fuel tanks were rinsed on or about March 21, 2000. Respondent offered the rinseate for transportation to Seaport Environmental, a Class D disposal facility, without completing a hazardous waste manifest.

On or about March 22, 2000, the rinseate was tested by Seaport Environmental and found to exhibit the characteristic of ignitability, as defined in California Code of Regulations, title 22, section 66261.21. The rinseate was subsequently transported to an approved hazardous waste Treatment, Storage or Disposal facility on Uniform Hazardous Waste Manifest number 99385070 as "Waste Flammable Liquid N.O.S. (Benzene). 3. UN1993. PG II."

3.2. The Respondent violated California Code of Regulations, title 22, section 66262.11, in that on or about March 21, 2000, Respondent failed to determine if the waste Respondent generated was hazardous. To wit: on or about March 21, 2000, Respondent failed to determine if the rinseate generated from rinsing six underground fuel tanks was hazardous.

The rinseate was transported using a document entitled "Non-Hazardous Water Transport Form" to Seaport Environmental, a Class D disposal facility. On or about March 22, 2000, the rinseate was tested by Seaport Environmental and found to exhibit the characteristic of ignitability, as defined in California Code of Regulations, title 22, section 66261.21. The rinseate had a flashpoint less than 60 degrees Centigrade (140 degrees Fahrenheit).

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondent does not admit the violations alleged above, except as follows: Respondent admits the facts alleged above for the purposes of any subsequent action brought pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et seq., within 5 years of the date the violation occurred.

SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1 Designation of Environmental Liaison: Within thirty (30) days of the effective date of this Order, Respondent shall provide to the Department the names, addresses, and telephone contact numbers for individuals in the Respondent's offices in Sacramento, Santa Rosa, and Fresno designated to act as liaison with the Department for all matters related to the Respondent's responsibilities under Chapter 6.8 of the Health and Safety Code which are subject to the Department's enforcement jurisdiction. In addition an individual in each of the three headquarters shall be designated as the staff hazardous waste expert who shall comply with paragraph 10.2. The individuals designated shall also

comply with the provisions of Paragraph 10.2.

10.2 California Compliance School: Respondent shall send one employee who is designated as the staff hazardous waste expert from each of the Respondent's offices in Sacramento, Santa Rosa, and Fresno to the following California Compliance School (CCS) modules:

Module I = Hazardous Waste Identification and Overview

Module II = Onsite Management Requirements (Tanks and Containers)

Module III = Preparedness, Prevention and Training

Module IV = Transportation (with California Manifest and LDRs)

Attendance shall be completed and Respondent shall submit a Certificate of Satisfactory Completion issued by the issued by the California Compliance School to the Department within one hundred eighty-five (185) days of the effective date of this Order.

10.3 Supplemental Environmental Projects (SEPS):

Respondent shall complete the Supplemental Environmental Projects (SEPs) specified in Appendix A and provide written documentation of completion to the Department, within one hundred eighty-five (185) days of the effective date of this Order. Total cost of implementing the SEPs shall not be less than \$5,000.00.

10.4. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent simultaneously to:

Ms. Astrid L. Johnson, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
1515 Tollhouse Road
Clovis, California 93611

Mr. Gary M. Carozza, Director
Fresno County Community Health Department
P.O. Box 11867
Fresno, California 93775

Ms. Charlene Williams, Chief
Northern California Branch
Statewide Compliance Division
Department of Toxic Substances Control
700 Heinz Avenue, Bldg. F., Suite 200
Berkeley, California 94710

10.5. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.6. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.7. Compliance with Applicable Laws: Respondent shall

carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.8. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.9. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.10. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all

property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.11. Sampling, Data, and Document Availability:

Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents

prepared pursuant to this Consent Order.

10.12. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.13. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing.

The extension request shall include a justification for the delay.

10.14. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS AND CREDITS

11. Penalties and costs assessed by the Department in this case total fifteen thousand, five hundred, seventy-four dollars and eighty-three cents (\$15,574.83), of which the thousand dollars (\$10,000.00) is a penalty which may be reduced by credits, and five thousand, five hundred, seventy-four dollars and eighty-three cents (\$5,574.83) is reimbursement of the Department's costs not otherwise reimbursed from other sources. Within 60 days of the effective date of this Consent Order, Respondent shall pay the Department a total of five thousand, five hundred, seventy-four dollars and eighty-three cents

(\$5,574.83). Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Ms. Astrid L. Johnson, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
1515 Tollhouse Road
Clovis, California 93611

To: Ms. Charlene Williams, Chief
Statewide Compliance Division
Department of Toxic Substances Control
700 Heinz Avenue, Bldg. F., Suite 200
Berkeley, California 94710

To: Mr. Robert Olken, Senior Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
700 Heinz Avenue, Bldg. F., Suite 200
Berkeley, California 94710

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code § 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

11.1 California Compliance School Penalty Credit: The penalty amount of ten thousand dollars (\$10,000.00) shall be reduced by five thousand dollars (\$5,000.00), conditioned upon the Respondent's completion of the requirements of Paragraph 10.1 within one hundred eighty-five (185) days of the effective date of this Order. If the Respondent fails to complete the requirements of Paragraph 10.1 within the proscribed time, the

penalty amount of five thousand dollars (\$5,000.00) shall be due and payable within thirty (30) days after the one hundred eighty-five (185) day period expires. This amount shall be due and payable in addition to any due under Paragraph 11.2.

11.2 Supplemental Environmental Projects (SEP) Penalty Credit: The penalty amount of ten thousand dollars (\$10,000) shall reduced by five thousand dollars (\$5,000.00), in addition to the amount specified in Paragraph 11.1, upon completion of the Supplemental Environmental Projects (SEPs) specified in Appendix A under the terms and conditions of Paragraph 10.3. If the Respondent fails to complete the requirements of Paragraph 10.2 within the proscribed time, the penalty amount of five thousand dollars (\$5,000.00) shall be due and payable within thirty (30) days after the one hundred eighty-five (185) day period expires. This amount shall be due and payable in addition to any amount due under Paragraph 11.1.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and

other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: [June 6, 2002]

Norman E. Hill]
Norman E. Hill, Chief Counsel
Department of Forestry and Fire
Protection

Dated: [June 10, 2002]

[Astrid L. Johnson]
Astrid L. Johnson, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control

APPENDIX A

Supplemental Environmental Projects

HAZWOPER 40 hour training to be provided to Department of Forestry and Fire Protection by the Association of Bay Area Governments
(<http://www.abag.ca.gov/abag/overview/training/framelist.html>) or similar vendor:

Course Number 1228 - Hazardous Waste Operations Training, OSHA 40-Hour HAZWOPER (General Site Worker)

Four employees at \$725.00 per student plus an estimated cost of \$650 per student for per diem and lodging for a one week class for a total estimated cost of \$1375.00 for each student.

Total estimated cost for four employees: \$5500.00